

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE CHICAGO BOARD OPTIONS
EXCHANGE VOLATILITY INDEX
MANIPULATION ANTITRUST
LITIGATION

MDL No. 2842
Case No. 1:18-cv-04171
Honorable Manish S. Shah

**NOTICE OF POSITION REGARDING
MOTION OF PLAINTIFFS WILLIAM TAD BERGER, DALE CARY,
AND DAVID SAMUEL TO MODIFY THE COURT'S AUGUST 16, 2018
ORDER APPOINTING PLAINTIFFS' LEADERSHIP COUNSEL**

On April 3, 2019, Plaintiffs William Tad Berger, Dale Cary, and David Samuel filed a motion to modify the Court's prior order appointing Kimberly Justice as co-lead counsel in this matter. Those plaintiffs request that the Court substitute as co-lead counsel Sharan Nirmul of Kessler Topaz Meltzer & Check, LLP for Ms. Justice, who has recently resigned from Kessler Topaz. Ms. Justice subsequently filed a response opposing the motion, and Kessler Topaz then filed a reply brief. Co-lead counsel Jonathan Bunge and the team from Quinn Emanuel Urquhart & Sullivan working on this case have reviewed the papers. We suspect that the Court might be interested in our view on this dispute and therefore provide the following:

1. We have worked closely with Ms. Justice as well as a number of other persons from Kessler Topaz assigned to this case. Among other things, lawyers from Quinn Emanuel and Kessler Topaz worked as a team in drafting the Amended Complaint, briefing our opposition to the motion to dismiss, and other projects. We have spent a substantial amount of time working with Ms. Justice and the Kessler attorneys since the lead counsel appointment in August 2018.

2. Ms. Justice and the other Kessler attorneys working on this case have done an admirable job representing the plaintiffs. We have found Ms. Justice and the other Kessler

attorneys to be very capable and hardworking lawyers. The Kessler team has unique experience and expertise in the subject matters of this cases – securities and market manipulation claims. We have worked well with the Kessler team (as well as Ms. Justice) and have tried as a group to represent the plaintiffs as efficiently and effectively as possible.

3. We believe that it is in the best interest of the class for the current Kessler team to continue to work together on this matter. There is a lot of background and expertise that the current Kessler team has acquired during the last year. The facts and the law here are complex. Particularly given the Court's comments at the April 4, 2019 status conference, there is a lot of work to be done in the near term. We do not believe it is in the best interest of the class to involve other attorneys at this time who have no background in this matter.

4. We think Ms. Justice should continue to act as co-lead counsel, but she should use the Kessler support team in the same role they have served to date. That might be most feasibly accomplished by appointing Mr. Nirmul, who has been actively involved in the case, as a third co-lead.

5. Regardless of the Court's resolution of this pending motion, Jonathan Bunge and Quinn Emanuel will work cooperatively with any team the Court deems appropriate. We are committed to this case and to providing the plaintiff class with the best possible representation.

Dated: April 16, 2019

By: /s/ Jonathan C. Bunge
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CERTIFICATE OF SERVICE

I, Jonathan C. Bunge, hereby certify that on April 16, 2019, I caused a copy of the foregoing to be filed electronically with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent to all counsel of record via the Court's CM/ECF automated filing system.

/s/ Jonathan C. Bunge

Jonathan C. Bunge